

HURRELL CANTRALL LLP
725 S. FIGUEROA STREET, SUITE 3800
LOS ANGELES, CALIFORNIA 90017
TELEPHONE (213) 426-2000

1 DAWYN R. HARRISON, County Counsel
STARR COLEMAN, Assistant County Counsel
2 THOMAS R. PARKER, Senior Deputy County Counsel
(SBN 141835) • TParker@counsel.lacounty.gov
3 648 Kenneth Hahn Hall of Administration
500 West Temple Street
4 Los Angeles, California 90012-2713
Telephone: (213) 974-1834
5 Facsimile: (213) 613-4751

6 Thomas C. Hurrell, State Bar No. 119876
E-Mail: thurrell@hurrellcantrall.com
7 Jonathan Fang, State Bar No. 279106
E-Mail: jfang@hurrellcantrall.com
8 HURRELL CANTRALL LLP
725 S. Figueroa Street, Suite 3800
9 Los Angeles, California 90017
Telephone: (213) 426-2000
10 Facsimile: (213) 426-2020

11 Attorneys for Defendants, CLARK R. TAYLOR, AICP, THE LOS ANGELES
COUNTY DEPARTMENT OF REGIONAL PLANNING

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13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

15 CLINTON BROWN,
16 Plaintiff,
17 v.

18 CLARK R. TAYLOR, AICP, THE
19 LOS ANGELES COUNTY
20 DEPARTMENT OF REGIONAL
PLANNING,
21 Defendants.

Case No. 2:22-cv-09203-MEMF-KS

**DEFENDANT'S EVIDENTIARY
OBJECTIONS TO PLAINTIFF'S
STATEMENT OF DISPUTED
MATERIAL FACTS AND
EXHIBITS; [PROPOSED] ORDER**

Filed concurrently with:

- 1) *Defendant's Reply ISO Motion for Summary Judgment; and*
- 2) *Defendant's Reply to Plaintiff's Statement of Disputed Material Facts*

Judge: Hon. Karen L. Stevenson

Assigned to:
Hon. Maame Ewusi-Mensah Frimpong
Courtroom "8B"

Magistrate Judge Karen L. Stevenson
Courtroom "580"

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DEFENDANT'S EVIDENTIARY OBJECTIONS

Evidence	Grounds for Objections
Evidentiary Objection No. 1: Plaintiff's P1/RJN to Plaintiff's Statement of Genuine Disputes of Material Facts by Nonmoving Party. (Dkt. No. 115-2).	<u>Federal Rule of Evidence ("FRE") 901</u> , lacks foundation/authentication. Plaintiff's P1/RJN is not authenticated by any affidavits, declarations, or answers to discovery. Plaintiff's P1/RJN lacks foundation and is not authenticated. <u>FRE 201</u> , P1/RJN is (1) not generally known within the Court's territorial jurisdiction and (2) can not be accurately and readily determined from sources whose accuracy cannot reasonably be questioned. <u>FRE 1002</u> , Best evidence rule. <u>FRE 1003</u> .
Evidentiary Objection No. 2: Plaintiff's P2/RJN to Plaintiff's Statement of Genuine Disputes of Material Facts by Nonmoving Party. (Dkt. No. 115-3).	<u>FRE 901</u> , lacks foundation/authentication. Plaintiff's P2/RJN is not authenticated by any affidavits, declarations, or answers to discovery. Plaintiff's P2/RJN lacks foundation and is not authenticated. <u>FRE 201</u> , P2/RJN is (1) not generally known within the Court's territorial jurisdiction and (2) can not be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.

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	<u>FRE 1002</u> , Best evidence rule. <u>FRE 1003</u> .
Evidentiary Objection No. 3: Plaintiff's P3/RJN to Plaintiff's Statement of Genuine Disputes of Material Facts by Nonmoving Party. (Dkt. No. 115-4).	<u>FRE 901</u> , lacks foundation/authentication. Plaintiff's P3/RJN is not authenticated by any affidavits, declarations, or answers to discovery. Plaintiff's P3/RJN lacks foundation and is not authenticated. FRE 201, P3/RJN is (1) not generally known within the Court's territorial jurisdiction and (2) can not be accurately and readily determined from sources whose accuracy cannot reasonably be questioned. <u>FRE 1002</u> , Best evidence rule. <u>FRE 1003</u> .
Evidentiary Objection No. 4: Plaintiff's P4/RJN to Plaintiff's Statement of Genuine Disputes of Material Facts by Nonmoving Party. (Dkt. No. 115-5).	<u>FRE 901</u> , lacks foundation/authentication. Plaintiff's P4/RJN is not authenticated by any affidavits, declarations, or answers to discovery. Plaintiff's P4/RJN lacks foundation and is not authenticated. FRE 201, P4/RJN is (1) not generally known within the Court's territorial jurisdiction and (2) can not be accurately and readily determined from sources whose accuracy cannot reasonably be questioned. <u>FRE 401/402</u> , Irrelevant.

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	<u>FRE 1002</u> , Best evidence rule. <u>FRE 1003</u> .
Evidentiary Objection No. 5: Plaintiff's P5/RJN to Plaintiff's Statement of Genuine Disputes of Material Facts by Nonmoving Party. (Dkt. No. 115-6).	<u>FRE 901</u> , lacks foundation/authentication. Plaintiff's P5/RJN is not authenticated by any affidavits, declarations, or answers to discovery. Plaintiff's P5/RJN lacks foundation and is not authenticated. <u>FRE 201</u> , P5/RJN is (1) not generally known within the Court's territorial jurisdiction and (2) can not be accurately and readily determined from sources whose accuracy cannot reasonably be questioned. <u>FRE 401/402</u> , Irrelevant. <u>FRE 1002</u> , Best evidence rule. <u>FRE 1003</u> .
Evidentiary Objection No. 6: Plaintiff's P6/RJN to Plaintiff's Statement of Genuine Disputes of Material Facts by Nonmoving Party. (Dkt. No. 115-7).	<u>FRE 901</u> , lacks foundation/authentication. Plaintiff's P6/RJN is not authenticated by any affidavits, declarations, or answers to discovery. Plaintiff's P6/RJN lacks foundation and is not authenticated. <u>FRE 201</u> , P6/RJN is (1) not generally known within the Court's territorial jurisdiction and (2) can not be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.

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1		<u>FRE 401/402</u> , Irrelevant.
2		<u>FRE 1002</u> , Best evidence rule.
3		<u>FRE 1003</u> .
4	Evidentiary Objection No. 7:	<u>FRE 901</u> , lacks foundation/authentication.
5		Plaintiff's P7/RJN is not authenticated by
6	Plaintiff's P7/RJN to Plaintiff's	any affidavits, declarations, or answers to
7	Statement of Genuine Disputes of	discovery. Plaintiff's P7/RJN lacks
8	Material Facts by Nonmoving	foundation and is not authenticated.
9	Party. (Dkt. No. 115-8).	<u>FRE 201</u> , P7/RJN is (1) not generally
10		known within the Court's territorial
11		jurisdiction and (2) can not be accurately
12		and readily determined from sources
13		whose accuracy cannot reasonably be
14		questioned.
15		<u>FRE 401/402</u> , Irrelevant.
16		<u>FRE 1002</u> , Best evidence rule.
17		<u>FRE 1003</u> .
18	Evidentiary Objection No. 8:	<u>FRE 901</u> , lacks foundation/authentication.
19		Plaintiff's P8/RJN is not authenticated by
20	Plaintiff's P8/RJN to Plaintiff's	any affidavits, declarations, or answers to
21	Statement of Genuine Disputes of	discovery. Plaintiff's P8/RJN lacks
22	Material Facts by Nonmoving	foundation and is not authenticated.
23	Party. (Dkt. No. 115-9).	<u>FRE 201</u> , P8/RJN is (1) not generally
24		known within the Court's territorial
25		jurisdiction and (2) can not be accurately
26		and readily determined from sources
27		whose accuracy cannot reasonably be
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1		questioned.
2		<u>FRE 401/402</u> , Irrelevant.
3		<u>FRE 1002</u> , Best evidence rule.
4		<u>FRE 1003</u> .
5	Evidentiary Objection No. 9:	<u>FRE 901</u> , lacks foundation/authentication.
6		Plaintiff's P9/RJN is not authenticated by
7	Plaintiff's P9/RJN to Plaintiff's	any affidavits, declarations, or answers to
8	Statement of Genuine Disputes of	discovery. Plaintiff's P9/RJN lacks
9	Material Facts by Nonmoving	foundation and is not authenticated.
10	Party. (Dkt. No. 115-10).	<u>FRE 201</u> , P9/RJN is (1) not generally
11		known within the Court's territorial
12		jurisdiction and (2) can not be accurately
13		and readily determined from sources
14		whose accuracy cannot reasonably be
15		questioned.
16		<u>FRE 401/402</u> , Irrelevant.
17		<u>FRE 1002</u> , Best evidence rule.
18		<u>FRE 1003</u> .
19	Evidentiary Objection No. 10:	<u>FRE 901</u> , lacks foundation/authentication.
20		Plaintiff's P10/RJN is not authenticated by
21	Plaintiff's P10/RJN to Plaintiff's	any affidavits, declarations, or answers to
22	Statement of Genuine Disputes of	discovery. Plaintiff's P01/RJN lacks
23	Material Facts by Nonmoving	foundation and is not authenticated.
24	Party. (Dkt. No. 115-11).	<u>FRE 201</u> , P10/RJN is (1) not generally
25		known within the Court's territorial
26		jurisdiction and (2) can not be accurately
27		and readily determined from sources
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1		whose accuracy cannot reasonably be
2		questioned.
3		<u>FRE 1002</u> , Best evidence rule.
4		<u>FRE 1003</u> .
5	Evidentiary Objection No. 11:	<u>FRE 401/402</u> , statement is vague,
6	"In any event, it is disputable whether	compound, lacks foundation misstates the
7	the entity is a disregarded or	evidence and is unsupported by the
8	partnership entity."	evidence.
9	Plaintiff's Response to Undisputed	
10	Material Fact No. 1 Cited Fact and	
11	Supporting Evidence. (Dkt. No. 115	
12	at 3.)	
13	Evidentiary Objection No. 12:	<u>FRE 401/402</u> , statement is vague,
14	"The Plaintiff has also 'pierced the	compound, lacks foundation misstates the
15	corporate veil' which in all fairness	evidence and is unsupported by the
16	and justice must be set aside to	evidence.
17	prevent fraud and ensure equity."	<u>FRE 701</u> , speculation.
18	Plaintiff's Response to Undisputed	<u>FRE 703</u> , improper legal conclusion.
19	Material Fact No. 1 Cited Fact and	Plaintiff did not plead in Plaintiff's
20	Supporting Evidence. (Dkt. No. 115	Complaint that he is the alter ego of Atlas
21	at 3.)	LLC and "Plaintiff has also pierced the
22		corporate veil." Plaintiff's claim to have
23		"pierced the corporate veil" on himself is
24		without foundation, not supported by
25		competent evidence, and is wholly
26		conclusory. Plaintiff did not mention
27		Atlas LLC in his complaint, nor that Atlas
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	<p>LLC was his Alter-Ego as he is attempting to allege now and that the corporate veil does not exist. Plaintiff has not alleged that he is a member of Atlas LLC either. Ninth Circuit precedent holds that raising a claim on summary judgment that is not pled in the complaint is impermissible. “[W]here, as here, the complaint does not include the necessary factual allegations to state a claim, raising such claim in a summary judgment motion is insufficient to present the claim to the district court.” <i>Navajo Nation v. U.S. Forest Service</i>, 535 F.3d 1058, 1080 (9th Cir. 2008); <i>Wasco Prods., Inc. v. Southwall Techs., Inc.</i>, 435 F.3d 989, 992 (9th Cir. 2006) (same); <i>Coleman v. Quaker Oats Co.</i>, 232 F.3d 1271, 1291-92 (9th Cir. 2000) (same).</p>
<p>Evidentiary Objection No. 13:</p> <p>"The terms of the "Partnership Grand Deed" are void and the Court should declare so."</p> <p>Plaintiff's Response to Undisputed Material Fact No. 5 Cited Fact and Supporting Evidence. (Dkt. No. 115 at 6.)</p>	<p><u>FRE 401/402</u>, statement is vague, compound, lacks foundation misstates the evidence and is unsupported by the evidence.</p> <p><u>FRE 701</u>, speculation.</p> <p><u>FRE 703</u>, improper legal conclusion.</p>

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<p>Evidentiary Objection No. 14:</p> <p>"There is a genuine dispute of material fact as to whether the County could deny the project if it was preempted by Federal law not to do so."</p> <p>Plaintiff's Response to Undisputed Material Fact No. 8 Cited Fact and Supporting Evidence. (Dkt. No. 115 at 9.)</p>	<p><u>FRE 401/402</u>, statement is vague, compound, lacks foundation misstates the evidence and is unsupported by the evidence.</p> <p><u>FRE 701</u>, speculation.</p> <p><u>FRE 703</u>, improper legal conclusion.</p>
<p>Evidentiary Objection No. 15:</p> <p>"The prohibition says nothing about structure-mounted-utility scale facilities in SEA's."</p> <p>Plaintiff's Response to Undisputed Material Fact No. 9 Cited Fact and Supporting Evidence. (Dkt. No. 115 at 11.)</p>	<p><u>FRE 401/402</u>, statement is vague, compound, lacks foundation misstates the evidence and is unsupported by the evidence.</p> <p><u>FRE 701</u>, speculation.</p> <p><u>FRE 703</u>, improper legal conclusion.</p> <p>Plaintiff did not plead in Plaintiff's Complaint that his solar farm application was a structure-mounted-utility scale facility, instead only ground mounted utility scale solar facilities were mentioned in the Complaint. Specifically, the Complaint states Plaintiff's solar farm project at 27250 Agoura Road was rejected because "<u>Ground mounted utility scale</u> solar facilities are not permitted in Significant Ecological Areas as described in section 22.140.510(C)(5)(a)..."</p>

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(emphasis added) (Plaintiff quoting the rejection letter received by Plaintiff from Defendant Clark Taylor, Regional Planner.) (See ECF No. 1 at 4:12-19.) Ninth Circuit precedent holds that raising a claim on summary judgment that is not pled in the complaint is impermissible. “[W]here, as here, the complaint does not include the necessary factual allegations to state a claim, raising such claim in a summary judgment motion is insufficient to present the claim to the district court.” *Navajo Nation v. U.S. Forest Service*, 535 F.3d 1058, 1080 (9th Cir. 2008); *Wasco Prods., Inc. v. Southwall Techs., Inc.*, 435 F.3d 989, 992 (9th Cir. 2006) (same); *Coleman v. Quaker Oats Co.*, 232 F.3d 1271, 1291-92 (9th Cir. 2000) (same).

DATED: January 17, 2024

HURRELL CANTRALL LLP

By: /s/ Jonathan Fang

THOMAS C. HURRELL
JONATHAN FANG
Attorneys for Defendants, CLARK R.
TAYLOR, AICP, THE LOS ANGELES
COUNTY DEPARTMENT OF
REGIONAL PLANNING